PARENTAL COST PARTICIPATION ASSESSMENT PROPOSAL

Framework of Options

March 1, 2004

Pursuant to the Omnibus Health Trailer Bill, AB 1762 (Chapter 230, Statutes of 2003), the Department of Developmental Services (Department) is required to develop a system of enrollment fees, co-payments, or both, to be assessed against the parents of children between the ages of 3 through 17, who live in the parent's home, receive services purchased through a regional center, and are not eligible for Medi-Cal. The Department was further directed to consult with stakeholders in developing the system and to conduct a survey of the parents affected by the system to determine: a) the family's gross annual income; b) the number of family members dependent on that income; and, c) the number of other minor children in the family who receive services through a regional center. The Department is mandated to submit the results of the survey, along with a detailed plan of implementation, to the Legislature by April 1, 2004.

The Department has complied with the above requirements by holding a stakeholder meeting in Sacramento on December 2, 2003, and at the request of stakeholders attending the meeting, participating in a telephone conference with stakeholders on December 12, 2003. In addition, the Department received written comments from 171 stakeholders, some of who had also attended the stakeholder meeting.

On November 21, 2003, the Department released a survey to 22,448 parents who met the statutory criteria for parental cost participation. The Department received over 6,100 responses or approximately 28 percent of the total surveyed.

The Department has identified two options for administration of the enrollment fee and/or co-payment system; either option would meet the legislative mandate to develop a system of parental financial participation in the cost of services provided to their minor children through a regional center. Option One would be administered by the State and would include both an enrollment fee and a co-payment assessment. Option Two would be administered by each regional center and would not include an enrollment fee.

The Department established a list of several principles as a guide in developing an equitable plan. They are:

- All families who are financially able to participate in the cost of services provided to their children should do so. With this basic principle in mind, the Department believes that a more appropriate name for the program would be the "Family Cost Participation Assessment Program (FCPAP)."

- Family cost participation shall be developed in such a manner that will not create an unacceptable financial burden, will maintain the integrity of the family, and encourage parents to continue caring for their children in their own home.

- The establishment of the FCPAP will not have any effect on the regional centers' process of determining consumers' needs through the Individual Program Plan.

- The FCPAP would recognize the number of family members dependent on the income and the number of minor children who receive services through the regional center, while either in the parent's home or out-of-home, including developmental centers. Adjustments in the amount of FCPAP will be made for families having more than one child receiving services

- The program must be simple and cost-effective to administer (i.e., costs to administer cannot exceed the revenue or savings realized by implementation of the program).

- In order to not encourage placement of children outside of the family home, the amount of the monthly FCPAP will always be less than the amount the parent would have to pay if the same child was in 24-hour, out-of-home placement and the parent was required to pay a parental fee.

- The program must not affect the Department's participation in other funding source programs (i.e., waivers, Medi-Cal, etc.)

- The system must react to changes in family economic conditions, or unforeseen unusual family hardships, and allow for the re-determination of the level of cost participation based on those changes.

An overview of the framework of each option is enclosed for your review. The Department recommends implementation of Option Two due to the simplicity and efficiency of administration at the regional center level. The specific details for implementation of this option (e.g., the scope of the services, the amount of the assessment, and the family income levels) are being discussed within the Administration and have not been included in the overview document.

If the Legislature approves a co-payment system, Trailer Bill language would be needed to establish the program. The Department would be responsible to establish statewide administrative procedures (via regulations) and the fee schedules to ensure consistency of application.

OPTION ONE

Enrollment Fee and Co-Payment Assessment Program

(Department of Developmental Services-Administered)

Under Option One, the State would administer a two-part program--an enrollment fee and a co-payment assessment. The enrollment fee would be a separate annual fee, which would be collected by the State to offset the costs of implementing this option.

Enrollment fees would be a flat fee which would be assessed at the time of the Individual Program Plan, the consumer's birth date, or some other date that would easily lend itself to setting the fee and distribute the work over a 12-month period of time. Enrollment fees would be reassessed each subsequent year using the anniversary date chosen above.

The co-payment assessment would be determined annually and would be based upon the cost of services utilized in the prior year and the annual gross income of the family as determined by Franchise Tax Board (FTB) records. The co-payment assessment would be collected by the State via monthly, quarterly, or annual payments by the family.

<u>Assumptions</u>:

1. The Department would have an electronically-accessed abstract of the parent's California State Income Tax Return from FTB, and an automated system to merge the parental financial information with record of a consumer's cost of services. This would allow the Department to electronically assess and bill the parents for the co-payment assessment, thereby minimizing administrative costs.

2. The Department would be authorized the necessary resources with respect to staff and funding to administer the program.

3. Income from enrollment fees and co-payment assessments would be deposited into the State General Fund as revenue.

Under the enrollment fee component, the family of the consumer would be assessed a flat yearly amount set by the Department. This fee is non-consumer related; therefore, only one enrollment fee will be assessed regardless of the number of consumers in the family who receive services. Enrollment fees would be assessed against all parents having an annual gross family income equal to a pre-determined percentage of the Federal Poverty Level (FPL) as adjusted for family size and meet the other criteria as set in § 4620.2 of the Welfare and Institutions Code (WIC).

The co-payment assessment component would not be assessed against the parents unless the annual gross family income was equal to a pre-determined percentage of the FPL as adjusted for family size. This component is a consumer-related payment; therefore, a co-payment would be assessed against the parents for each consumer between the ages of 3 through 17 years who receive services purchased through a regional center. The Department proposes that an adjustment in the amount of the co-payment assessment be made for families having more than one child receiving services.

Under this option, consumers would not be denied services because parents neglect or refuse to pay the enrollment fee or the co-payment. However, the Department would vigorously pursue collections through letters, telephone contact, personal contacts, and through the courts, if necessary.

Also under this option, revenue generation would not begin until January 2005, at the earliest, and the State would not receive full-year benefits until the 2005-06 fiscal year.

Implementation of this option would require hiring 27 State staff to implement and administer the program, plus a consultant to assist in the development of a billing and collection system; a computer interface to FTB to allow an electronic transfer between FTB and the Department for an abstract of each payor's State Income Tax Return; and a system interface between the billing and collection system and the California Developmental Disabilities Information System or Client Master File to allow electronic matching of consumers' Purchase of Services (POS) expenditures with parents' financial records. The system must be able to assess and bill the enrollment fee, internally compute the appropriate level of the co-payment assessment, and to prepare the billing notice that will be mailed to the payor.

<u>Advantages</u>:

- Provides a uniform and equitable assessment, billing, and collection program.

- Is consistent with stakeholders' input to have the program administered at the State level.

- There would be a savings to the POS budget due to the families' co-payment in the cost of services provided. In future years, the schedule could assist in containing POS costs as families assess their need, taking into consideration their financial responsibility.

<u>Disadvantages</u>:

- Increases state workforce and administrative costs.

- Requires access to FTB records, which has been a past concern.

- Requires developing a software program to assess, bill, and collect enrollment fees and family cost participation assessments.

- Stakeholders have indicated that they will oppose any option, unless cost sharing is perceived as minimal.

- Requires that the Department collect both the enrollment fees and the co-payment assessment fees from the families.

- Requires that the Department establish a procedure to address families who refuse to pay enrollment fees or co-payment assessments.

- Parents have stated that if they are assessed any financial participation, which is considered more than minimal, they may opt to place their children in 24-hour, out-of-home placement at a higher cost to the State.

- Parents may choose to discontinue the use of regional center services, which could be detrimental to the consumer and could result in increased future costs of care.

OPTION TWO

Family Cost Participation Assessment Program

(Regional Center-Administered)

Because of the differences between Option One and Option Two, the Department does not believe the term "Co-Pay" is appropriate to describe this option and, therefore, will refer to it as the Family Cost Participation Assessment Program. Under this option, the child's needs would be assessed during the Individual Program Plan (IPP) process. The percentage of family cost participation would then be based on a schedule established by the Department in accordance with income and family factors described under the Basic Principles previously discussed. This part of the process would occur during the authorization of purchased services at the regional center. The family's gross income would be re-determined annually, based on a W-2 tax form or other acceptable documentation, or sooner if there is a significant change in family circumstance. Once the parent's liability is established, the regional center will be obligated to fund the remaining portion. It is assumed that the families will purchase the remainder of the services for which they are liable. The family would pay the vendor or other party directly for any services above and beyond those paid for by the regional center. There would be no enrollment fee included under this option. The enrollment fee would be costly to administer since this option does not anticipate actual dollars being collected at the regional centers.

<u>Assumptions</u>:

1. The Department would develop procedures for regional center administration of the program and include a schedule of family cost participation responsibility to ensure consistency of application.

2. Family cost participation obligations would be assessed by the regional centers.

3. The percentage of obligation set by the schedule would indicate the amount of services the regional center would pay the provider. It is assumed that the family would purchase the remaining services established in the child's IPP.

<u>Advantages</u>:

- The FCPAP would be administered consistently throughout the regional center system with new regulations and directives from the Department.

- No funds would need to be collected by the State or regional centers.

- No additional State staff or State administrative funding would be needed.

- No new computer software program would need to be developed.

- There would be no need to access the FTB records.

- There would be an immediate reduction in POS costs by an amount equal to the parent's obligation.

Disadvantages:

- Parents and advocacy groups have stated that they would strongly oppose a regional center-administered program because they perceive a greater risk of breaches in confidentiality, possible conflicts of interest because the regional centers' primary goals are to identify and procure services for the consumer, and the possible lack of program uniformity will occur among the 21 regional centers.

- Stakeholders have indicated that they will oppose any option, unless cost participation is perceived as minimal.

- Additional regional center staff would be needed to administer the program.

- Parents have stated that if they are assessed any financial participation considered more than minimal, they may opt to place their children in 24-hour, out-of-home placement at a higher cost to the State.

- Parents may choose to discontinue participation in regional center services, which could be detrimental to the consumer and result in increased costs in the future.

The Department understands that many of the participants in the stakeholder meetings, as well as those who submitted written comments, made it very clear that having the regional centers administer the program is not a viable choice. The Department has considered these concerns and believes this proposal addresses the issues raised.

Confidentiality of records, whether it be financial or treatment, is a concern we all share. WIC § 4514 entitled, "Confidentiality of information and records; Authorized disclosures" is very explicit about what information can be shared, to who, and under what circumstances may receive it. Section 4518 of the same Code provides for legal remedies for any person found to have violated the confidentiality of the records. Furthermore, under the federal Health Insurance Portability and Accountability Act, there are strict confidentiality requirements. Violation of these requirements could result in punitive damages to the offender. Both State and federal laws apply equally to the regional centers, as well as to the State.

In so far as a conflict of interest is concerned, the Department's proposal is to separate the duties of the person or team that prepares the IPP from the person that will set the Parental Cost Participation Assessment. The Department also plans to develop statewide standards, in regulations, to insure that regional centers comply with program requirements. These safeguards will assure confidentiality, prevent conflict of interest, and create program equity among the 21 regional centers.